

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SUSAN MARCOS-CHAVELA,

Plaintiff,

v.

OL REIGN GROUPE et al,

Defendants.

CASE NO. 2:23-cv-00897-TL

ORDER OF DISMISSAL

This is a § 1983 action asserting various claims based on the display of certain flags. This matter comes before the Court on its own motion, upon review of the record. For the reasons below, this case is DISMISSED without prejudice and with leave to amend.

**I. BACKGROUND**

Plaintiff Susan Marcos-Chavela brings this action against Defendants “OL Reign Groupe France,” Jeffrey Bezos, Lumen Field, Jody Allen, the Seattle Seahawks, and the City of Seattle.<sup>1</sup>

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<sup>1</sup> These are the Defendants listed in the caption on the Complaint. Plaintiff’s list of Defendants, provided on pages two and three of the Complaint, appears to point at generally the same Defendants but with variations in the names

Dkt. No. 5 at 1. The Complaint is difficult to decipher and understand, but in essence, Plaintiff seems to object to the June 2023 display of certain flags showing support for LGBTQIA+ rights at Lumen Field. *See, e.g., id.* at 3 (“offensive act in Lumen Field . . . flaunt the [*offensive language*] – w/ symbolic flag”); *id.* at 6 (“continual use of a paid special event to promote [*offensive language*] [*illegible*] personal delusion of false injuries – similar to NBA – Black Lives Matter offensive!”). Plaintiff appears to allege that this “offensive act” affected the “entire stadium, readership of Seattle Times, [and] ‘word of mouth – indirect communication.’” *Id.* Plaintiff also alleges other grievances, which appear to be related to this central complaint but are otherwise difficult to understand. *See, e.g., id.* at 7 (“continual abuse of [*illegible*] at personal directive to put soul back in America – to – divest [*illegible*] now foreign French investors”).

Plaintiff’s causes of action appear to arise out of “freedom of worship” and “consumer fraud” pursuant to 42 U.S.C. § 1983 (“Section 1983”) and *Bivens*, which together permit certain actions to be brought against state, local, and federal public officials. Dkt. No. 5 at 4–5. The relief that Plaintiff seeks is, again, difficult to decipher but appears to be for astronomically high numbers in unspecified currency. *See id.* at 7 (“Money – 200 billion 200 million . . . Taj Mahal 60 (bi) [*unintelligible*] . . . (60) bil . . .”).

Plaintiff proceeds *pro se*, or without legal representation. The Magistrate Judge granted Plaintiff *in forma pauperis* status, permitting her to proceed without paying the filing fee, with a recommendation that the Complaint be reviewed under 28 U.S.C. § 1915(e)(2)(B). Dkt. No. 4. Summons has not yet issued.

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and descriptions of each Defendant. *See* Dkt. No. 5 at 1–3. A court may take judicial notice of facts “generally known within the trial court’s territorial jurisdiction.” Fed. R. Evid. 201(b)(1). For the sake of clarity and context for the purposes of this Order, the Court notes that “OL Reign” is the name of a Seattle-based professional women’s soccer team, “Lumen Field” is the name of a sports stadium complex located in Seattle, and “Seattle Seahawks” is the name of a Seattle-based professional football team.

## II. LEGAL STANDARD

A court must dismiss an *in forma pauperis* complaint if it is “frivolous or malicious,” “fails to state a claim on which relief can be granted,” or “seeks monetary relief against a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2); *see also Lopez v. Smith*, 203 F.3d 1122, 1129 (9th Cir. 2000) (en banc) (“[S]ection 1915(e) applies to all in forma pauperis complaints . . .”).

This Court liberally construes pleadings filed by *pro se* litigants and holds them “to less stringent standards than formal pleadings drafted by lawyers.” *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam) (citations omitted). Even so, a court should “not supply essential elements of the claim that were not initially pled.” *E.g., Henderson v. Anderson*, No. C19-789, 2019 WL 3996859, at \*1 (W.D. Wash. Aug. 23, 2019) (internal quotation marks omitted) (quoting *Bruns v. Nat’l Credit Union Admin.*, 122 F.3d 1251, 1257 (9th Cir. 1997)); *see also Khalid v. Microsoft Corp.*, 409 F. Supp. 3d 1023, 1031 (W.D. Wash. 2019) (“[C]ourts should not have to serve as advocates for pro se litigants.” (quoting *Noll v. Carlson*, 809 F.2d 1446, 1448 (9th Cir. 1987))). Also, “it is axiomatic that pro se litigants, whatever their ability level, are subject to the same procedural requirements as other litigants.” *Muñoz v. United States*, 28 F.4th 973, 978 (9th Cir. 2022). The Court is mindful that it ordinarily must grant leave to amend when it dismisses a *pro se* complaint unless the pleading cannot be cured by amendment. *E.g., Yagman v. Garcetti*, 852 F.3d 859, 867 (9th Cir. 2017) (affirming dismissal without leave to amend where amendment was futile).

## III. DISCUSSION

As an initial matter, the Court notes that Plaintiff appears to be a serial litigant in this District, having filed at least ten other actions in the last two years alone. These cases and their procedural postures are as follows:

- 1 • ***Marcos-Chavela v. United States Sports Teams, C22-980***: Dismissed with  
2 prejudice as frivolous and without leave to amend. *See* Dkt. No. 6.
- 3 • ***Marcos-Chavela v. Graham, C22-1035***: Dismissed with prejudice for failure to  
4 state a claim, after leave to amend was granted but no amendment was filed. *See*  
5 Dkt. No. 8.
- 6 • ***Marcos-Chavela v. Obama, C22-853***: Dismissed without prejudice by adoption  
7 of report and recommendation. *See* Dkt. No. 6.
- 8 • ***Marcos-Chavela v. Multnomah County Circuit Court of the State of Oregon,***  
9 ***C22-854***: Transferred *sua sponte* to the District of Oregon. *See* Dkt. No. 4.
- 10 • ***Marcos-Chavela v. State of Utah, C22-975***: Dismissed with prejudice as  
11 frivolous and for failure to state a claim, without leave to amend. *See* Dkt. No. 6.
- 12 • ***Marcos-Chavela v. United States Supreme Court, C22-976***: Dismissed with  
13 prejudice for failure to state a claim, without leave to amend. *See* Dkt. No. 7.
- 14 • ***Marcos-Chavela v New York City 9-11 Memorial Museum, C22-1060***:  
15 Dismissed with prejudice as frivolous and for improper venue. *See* Dkt. No. 3.
- 16 • ***Marcos-Chavela v. Biden, C22-1666***: Dismissed without prejudice but with leave  
17 to amend. *See* Dkt. No. 6. The case was later closed for failure to amend, and a  
18 subsequent Ninth Circuit appeal was dismissed for failure to prosecute.
- 19 • ***Marcos-Chavela v. Social Security, C23-875***: The court found that the complaint  
20 fails to state a claim and granted leave to amend by July 13, 2023, warning that  
21 the case will be dismissed without prejudice otherwise. *See* Dkt. No. 6.
- 22 • ***Marcos-Chavela v. Commissioner of Social Security, C23-876***: Complaint filed  
23 on June 16, 2023, remains pending.

24 Of these ten cases, seven were dismissed early in the proceedings, one was transferred out of the District, one is close to dismissal, and one is a case that was filed within the last month. Plaintiff is cautioned that continuing to file numerous, frequent lawsuits that have little to no substantive merit may result in being declared a “vexatious litigant” and limited in her ability to file lawsuits in this District in the future. *See, e.g., In re Tam Tran*, No. C23-5279, Dkt. No. 4 (W.D. Wash. Apr. 21, 2023) (order noting intent to enter bar order against vexatious litigant for filing 25 cases in under a year in this District).

1 In any case, Plaintiff's complaint in this action suffers from a myriad of issues that doom  
2 her claims. The Court lists some of the most significant of these issues below.

### 3 **A. Lack of Standing**

4 Notably, one of Plaintiff's recently dismissed actions involved familiar allegations and  
5 claims, with Plaintiff objecting to various political figures and entities allegedly promoting such  
6 "political party ideology" as "trans culture," LGBTQIA+ rights, and the Black Lives Matter  
7 movement. *See Marcos-Chavela v. Biden*, No. C22-1666, Dkt. No. 5 (W.D. Wash. Nov. 28,  
8 2022). The case was dismissed in part for a failure to allege an injury-in-fact. *Biden*, No. C22-  
9 1666, Dkt. No. 6 (Feb. 9, 2023). This above-captioned matter suffers from the same deficiency.

10 Federal courts are courts of limited jurisdiction, meaning that they can only hear certain  
11 types of cases. *Home Depot U.S.A., Inc. v. Jackson*, 139 S. Ct. 1743, 1746 (2019) (quoting  
12 *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994)). "Standing" examines  
13 whether a plaintiff is entitled to bring their claims before the court and is an essential ingredient  
14 of determining a court's jurisdiction. *See Perry v. Newsom*, 18 F.4th 622, 630–31 (9th Cir. 2021).  
15 For a plaintiff to have standing to bring a lawsuit, she must demonstrate an injury that is  
16 "concrete, particularized, and actual or imminent" (also known as the "injury-in-fact"), that the  
17 injury is "fairly traceable to the challenged action," and that such injury is "redressable by a  
18 favorable ruling." *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 409 (2013). For an injury-in-fact  
19 to be "concrete," the injury "must actually exist." *Perry*, 18 F.4th at 631 (quoting *Spokeo v.*  
20 *Robins*, 578 U.S. 330, 1548 (2016)). And for an injury-in-fact to be "particularized," the injury  
21 must affect the claimant "in a personal and individual way." *Id.* (quoting *Spokeo*, 578 U.S.  
22 at 1548).

23 Plaintiff fails to plead an injury-in-fact. She does not allege any actual (or imminent)  
24 injury she suffered as a result of the alleged misconduct: the display of pro-LGBTQIA+ flags. In

particular, the relief she seeks, which includes “billions” in unspecified currency and references to the Taj Mahal and other difficult-to-decipher components, seems completely untethered to the allegations in the Complaint. Dkt. No. 5 at 7. Further, Plaintiff fails to show that any injury she suffered was particularized, as she admits that the alleged conduct affected the general public—such as those present in the Lumen Field stadium and readers of the Seattle Times—and provides no indication that she suffered any individualized harm separate and distinct from that of the public. *Id.* at 6; *see Perry*, 18 F.4th at 634 (“A purported injury is an impermissible generalized grievance when the interest of the party asserting it is plainly undifferentiated and common to all members of the public.” (internal quotation marks omitted) (quoting *Lance v. Coffman*, 549 U.S. 437, 439 (2007))).

Accordingly, Plaintiff lacks standing to bring this suit, and the Court is without jurisdiction over this matter.

#### **B. Other Deficiencies**

The Court will grant Plaintiff leave to amend her pleadings to cure the deficiencies of her Complaint, as the deficiencies of the Complaint largely stem from a lack of clarity and detail in the pleadings. Because the Court will grant Plaintiff leave to amend, it briefly notes some of the other significant deficiencies in the Complaint for Plaintiff to correct in any amended pleading. *See Akhtar v. Mesa*, 698 F.3d 1202, 1212 (9th Cir. 2012) (“[B]efore dismissing a pro se complaint the district court must provide the litigant with notice of the deficiencies in his complaint in order to ensure that the litigant uses the opportunity to amend effectively.” (quoting *Ferdik v. Bonzelet*, 963 F.2d 1258, 1261 (9th Cir. 1992))). These deficiencies include the following:

- Plaintiff only vaguely names “freedom of worship” and “consumer fraud” as her causes of action. Dkt. No. 5 at 5. She does not provide the constitutional

1 provision, statute, or other specific detail to enable the Court to identify what  
2 these claims reference.

- 3 • Even construing Plaintiff's claims liberally, Plaintiff fails to plead any details  
4 showing that her ability to worship or engage in other religious activities was  
5 restricted in any way. And Plaintiff's failure to allege any fraudulent or otherwise  
6 deceptive representation (or omission) dooms her "consumer fraud" claim. *See*  
7 *Henderson*, 2019 WL 3996859, at \*1 (holding a court should "not supply  
8 essential elements of the claim that were not initially pled").
- 9 • While her allegations are generally difficult to follow, Plaintiff fails to attribute  
10 any specific action (or inaction) to any specific Defendant in her Complaint.
- 11 • Plaintiff's claims arise out of Section 1983 and *Bivens*, which together permit the  
12 enforcement of certain individual rights against federal, state, and local officials.  
13 *See, e.g., Ochoa v. Pub. Consulting Grp., Inc.*, 48 F.4th 1102, 1107 (9th Cir.  
14 2022) ("To state a claim under § 1983, a plaintiff must allege the violation of a  
15 right secured by the Constitution and laws of the United States, and must show  
16 that the alleged deprivation was committed by a person acting under color of state  
17 law." (quoting *West v. Atkins*, 487 U.S. 42, 48 (1988))); *Bivens v. Six Unknown*  
18 *Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388, 392–93 (1971)  
19 (holding the Fourth Amendment provides a cause of action to sue federal  
20 officers); *see also Wyatt v. Cole*, 504 U.S. 158, 161 (1992) ("The purpose of  
21 § 1983 is to deter state actors from using the badge of their authority to deprive  
22 individuals of their federally guaranteed rights and to provide relief to victims if  
23 such deterrence fails."). Five out of the six Defendants (all but the City of Seattle)  
24 appear to be non-governmental entities against whom a Section 1983 claim

1 cannot be asserted, and Plaintiff provides no details from which the Court might  
2 infer that any of those five Defendants otherwise acted under the color of state  
3 law or federal authority.

4 **IV. CONCLUSION**

5 Accordingly, the Court DECLINES to issue summons and DISMISSES this action without  
6 prejudice for lack of subject matter jurisdiction.

7 Plaintiff is GRANTED LEAVE to file an amended complaint **within fourteen (14) days** of  
8 this Order. The Court notes that Plaintiff has previously been reprimanded for the use of  
9 derogatory language, including a homophobic slur. *See Biden*, No. C22-1666, Dkt. Nos. 5, 6. Yet  
10 Plaintiff uses the same homophobic slur in the Complaint filed in this action. *See* Dkt. No. 5  
11 at 3, 6. Such language is unpersuasive, gratuitous, and demeaning. Plaintiff is ORDERED to refrain  
12 from using such language in any amended pleading or other future filings.

13 Failure to timely amend will result in the final dismissal and closure of this case.

14 Dated this 3rd day of July 2023.

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17 Tana Lin  
18 United States District Judge  
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